UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SULZER MIXPAC AG,

Plaintiff,

Plaintiff,

19 Civ. 9404 (LAP)

V. 
ORDER

DXM CO., LTD., and
DENTAZON CORPORATION,

Defendants.

LORETTA A. PRESKA, Senior United States District Judge:

Before the Court is Defendants' motion to stay the proceedings in this case pending parallel proceedings before the Trademark Trial and Appeal Board ("TTAB"). That request is denied.

Even by the most optimistic of estimates, the TTAB proceeding "should be decided within 21 months." (See

Defendants' Reply Memorandum of Law on Defendants' Motion to

Stay, dated February 7, 2020 [dkt no. 45] at 5.) Plaintiff

estimates the delay at two and half years at the TTAB and

another two years for the appeal. (See Plaintiff's Memorandum of Law in Opposition to Defendants' Motion to Stay, dated

January 31, 2020 [dkt. no. 43] at 5.)

In either case, the delay will result in undue prejudice to Plaintiff. The requested stay would deny enforcement of the Judgment and the Settlement Agreement that the parties entered

into in 2016. Given the prior findings of validity of Mixpac's Candy Colored Registrations both by the United States Patent and Trademark Office and by Judge Kaplan in Sulzer Mixpac AG v. A&N Trading Co., et al., No. 19 Civ. 9175, dkt. no. 144 (Aug. 14, 2019), there is no reason to delay Mixpac's enforcement of its rights, both under its Registrations and its Settlement Agreement. Accordingly, Defendants' Motion for a Stay [dkt. no. 39] is denied.

SO ORDERED.

Dated:

New York, New York February 20, 2020

LORETTA A. PRESKA

Senior United States District Judge